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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/525,381

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Timothy S. Stevens

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EXAMINER

SMITH, GARRETT A

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/525,381

Applicant(s)

STEVENS ET AL.

Examiner

Garrett A. Smith

Art Unit

2169

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1 August 2007; 22 August 2007</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Office action is regarding Applicant's response filed 9 August 2007 to a prior Office action. Claims 1 – 17 are pending. Claim 5 is canceled. Claims 1 – 3, 7 and 13 are amended. Claim 17 is new.

#### ***Information Disclosure Statement***

2. The Information Disclosure Statements filed 1 August 2007 and 22 August 2007 have been considered by the Examiner. Signed and dated IDS forms have been enclosed with this Office action.

#### ***Oath/Declaration***

3. Applicant's arguments (pages 14 and 15), filed 9 August 2007, with respect to the objection to the oath/declaration have been fully considered and are persuasive. The objection to the oath/declaration has been withdrawn.

#### ***Specification***

4. The Examiner notes the corrections to the Specification, Abstract and Title. These changes have been entered. The objections to the Specification, Abstract and Title have been withdrawn.

***Response to Arguments***

**35 USC § 112**

5. Applicant's arguments (page 15) and amendments, filed 9 August 2007, with respect to the rejection under 35 USC § 112 of claims 1 – 6 and 13 have been fully considered and are persuasive. The rejection under 35 USC § 112 of claims 1 – 6 and 13 has been withdrawn.

**35 USC § 101**

6. Applicant's arguments (page 16) and amendments, filed 9 August 2007, with respect to the rejection under 35 USC § 101 of claims 1 – 6 have been fully considered and are persuasive. The rejection under 35 USC § 112 of claims 1 – 6 has been withdrawn.

**35 USC § 102(b): Reber et al (US Patent 5,584,006; patented 10 December 1996)**

7. Applicant's arguments (page 17), filed 24 July 2007, with respect to the rejection under 35 USC § 102 of claims 1 – 10, 14 and 15 have been fully considered and are not persuasive. Applicant argues that Reber et al does not perform placing content in a particular order automatically. The Examiner respectfully disagrees. The user does not physically place the content in any order rather the system assists the user in the construction of the media article. Furthermore, Applicant is arguing a feature that appears in the preamble of the claims and as such has not been given patentable weight. A preamble is generally not accorded any patentable weight where it merely

recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Therefore, the rejection under 35 USC § 102 of claims 1 – 4, 6 – 10, 14 and 15 has been **maintained**. The rejection with regard to claim 5 is withdrawn because Applicant has canceled the claim.

**35 USC § 102(b): Sweat et al (US Patent 5,619,636; patented 8 April 1997)**

8. Applicant's arguments (page 18), filed 24 July 2007, with respect to the rejection under 35 USC § 102 of claims 7 – 13, 15 and 16 have been fully considered and are not persuasive. Applicant argues that Sweat et al does not perform placing content in a particular order automatically. The Examiner respectfully disagrees. The user does not physically place the content in any order rather the system assists the user in the construction of the media article. Furthermore, Applicant is arguing a feature that appears in the preamble of the claims and as such has not been given patentable weight. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). However, Applicant's amendment to claim 7 overcomes

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the rejection under 35 USC § 102 of claims 7 – 13, 15 and 16 over Sweat et al (specifically “which at least ... by the second set of stored media data”). Therefore, the rejection under 35 USC § 102 of claims 7 – 13, 15 and 16 has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of Reber et al and Sweat et al for claims 11, 12 and 13.

### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims **1 – 4, 6 – 10, 14, 15 and 17** are rejected under 35 U.S.C. 102(b) as being anticipated by Reber et al (US Patent 5,584,006; patented 10 December 1996).

11. **In regard to claim 1**, Reber et al teaches a method of automatically composing a media article comprising: reading digital metadata associated with a first set of stored media data (*[col 3, lines 52 – 54], the table of relations links the linear media data and any digitized media data*), which digital metadata includes: related set identity data identifying a second set of stored media data (*[col 11, lines 41 – 49] the table of relations contains the identifiers for the second set of data which is deemed equivalent*); and relationship data which indicates whether the user is to see or hear what is represented by the first set of stored media data before what is represented by the

second set of stored media data ([col 11, lines 41 – 49] *the relationship between the two sets of media data is the equivalence of the media data including data on how the equivalent media overlap, what sequences overlap and their locations stored in the table of relationships*; [col 11, 42 - 43] *application arranges the media data in a time sequence and switches in and out media on the fly to keep what a user sees and hears in sequence*); and arranging said first and second sets of stored media data or identifiers thereof in said media article in accordance with said relationship data ([col 11, lines 39 – 41] *the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis*); and synthesizing and storing or outputting said media article with said first and second sets of stored media data being arranged accordingly.

12. **In regard to claim 2**, Reber et al further teaches a method further comprising generating said related set identity data and said relationship data ([col 10, lines 36 - 38] *relational information pertinent to the list of source identifiers is added to a list of relational information i.e. generating relationship data*, [col 10, lines 46-47] *any new source identifiers are added to the source list i.e. generating identity data*).

13. **In regard to claim 3**, Reber et al further teaches wherein said metadata further comprises content data indicating what is represented by said sets of stored media data ([col 11, lines 5 – 7]; *a time sequence that media data covers is stored in the table of relations as is shows equivalence*); said method further comprising: selecting, from said

plurality of sets of stored media data; one or more selected sets of stored media data in dependence upon said content data (*[col 11, 34-38 and col 11, lines 43 - 47]; the application selections from set of media data the available and most complete media data based on the time sequence data*).

14. **In regard to claim 4**, Reber et al further teaches making a plurality of such selections (*[col 10, lines 57 – 58] covering a time sequence may take multiple sets of media data*); and concatenating the results of said selections (*[col 11, lines 7-8] a list is constructed of all results of the time sequence selection*).

15. **In regard to claim 6**, Reber et al further teaches said set of stored media data contains video data (*[col 1, lines 17-19]*)

16. **In regard to claim 7**, Reber et al teaches one or more memory devices storing, for each of a plurality of sets of stored media data include first and second sets of stored media data, metadata (*[col 11, lines 53-54] the table of relations is created and stored in memory*) which at least for said first set of media data includes: related set identify data identifying a second set of stored media data and relationship data which indicates whether the user is to see or hear what is represented by the first set of stored media data before or after he sees or hears what is represented by the by the second set of stored media data (*[col 11, 42 - 43] application arranges the media data in a time sequence and switches in and out media on the fly to keep what a user sees and hears in sequence; [col 11, lines 41 – 49] the relationship between the two sets of media data is the equivalence of the media data including data on how the equivalent media overlap, what sequences overlap and their locations stored in the table of relationships*);



and one or more digital processors in communication with said one or more memory devices and arranged in operation to read said metadata compose a media article by arranging said first and second sets of stored media data or identifiers thereof in accordance with said relationship data read from said metadata ([col 11, lines 39 – 41] *the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources, and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis*).

17. **In regard to claim 8**, Reber et al further teaches said relationship data indicates a causal relationship between what is represented by one of said sets of stored media data and what is represented by another of said sets of stored media data ([col 2, line 54], *time sequences purport a causal relationship*).

18. **In regard to claim 9**, Reber et al also teaches said one or more processors is further arranged in operation to provide a user with an interface enabling the user to enter said relationship data ([col 6, lines 43 – 49] *Mfm\_Create is an interface whereby the user can add new relationship data i.e. new time codes and sequences*).

19. **In regard to claim 10**, Reber et al further teaches said metadata is stored in a database ([col 11, lines 55 – 58]), and said one or more processors are further arranged in operation to query said database to obtain identifiers of sets of stored media data whose metadata meets one or more conditions specified in said query ([col 10, lines 57-59] *a procedure of finding identifiers of media data from a query consisting of a source identifier and range identification*).

20. **In regard to claim 14**, Reber et al also teaches a content store storing a plurality of sets of stored media data ([col 3, lines 39 –41]), said metadata for each set of stored media data including a pointer to the location of said set of stored media data in said content store ([col 6 line 16], *media identifier is the pointer to the location of the media file*).

21. **In regard to claim 15**, Reber et al further teaches said one or more memories further store one or more media element selection criteria ([col 10, lines 57-59] *a procedure of finding identifiers of media data from a query consisting of a source identifier and range identification*), and said one or more processors are further arranged in operation to receive a set of media element identifiers and select said input set by selecting a subset of media element identifiers in accordance with said selection criteria ([col 11, lines 39 – 41] *the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources, and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis*).

22. **In regard to claim 17**, Reber et al further teaches said set of stored media data contains video data ([col 1, lines 17-19]).

### ***Claim Rejections - 35 USC § 103***

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

25. Claims **11 – 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al (US Patent 5,584,006; patented 10 December 1996) as applied to claim 10 above, and further in view of Sweat et al (US Patent 5,619,636; patented 8 April 1997).

26. **In regard to claim 11**, Reber et al teaches the invention as substantially claimed. Reber et al does not explicitly teach the use of an object-oriented database. However, Sweat et al teaches said database comprises an object-oriented database and metadata for each set of stored media data is stored as an object in said object-oriented database (*[col 3, lines 54-57]*). It would have been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

27. **In regard to claim 12**, Sweat et al further teaches said relationship data is stored as data, which defines the relationships between objects in the database ([col 3, lines 54-57] database “tracks and maintains references to media”). It would have been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

28. **In regard to claim 13**, Sweat et al further teaches membership of a set is indicated by each member in the set inheriting from a container object ([col 4, lines 32-40] a plurality of modules in a module is a container module which indicates membership of a set of related modules). It would have been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

29. **In regard to claim 16**, Sweat et al further teaches said one or more media element selection criteria comprise a set of template data, each of said sets of template data listing a plurality of slots to be filled ([col 7, lines 12-18] palette is a template with a number of slots), and, for each slot, one or more associated requirements of media elements for filling said slot ([col 7, lines 12-18] user query sets criteria for filling the slot on the palette); and said one or more processors are further arranged in operation to provide said subset by, for each of said slots, retrieving one or more identifiers of media elements whose metadata accords with said one or more requirements for said slots ([col 7, lines 12-18] fully constructed palette can be saved and used). It would have

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been obvious to a person of ordinary skill in the art at the time of invention to use an object-oriented database of Sweat et al with the apparatus of Reber et al because it would allow for greater compatibility, modularity and easy of use for a user.

***Conclusion***

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The Examiner requests, in response to this Office action, that support be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line no(s) in the specification and/or drawing figure(s). This will assist the Examiner in prosecuting the application.

When responding to this Office action, Applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections See 37 CFR 1.111(c).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Garrett A. Smith whose telephone number is (571) 270-1764. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chace can be reached on (571) 272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 6, 2007



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Art Unit 2169



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